



**AGENCY:** City Council  
**MEETING DATE:** January 27, 2021  
**DEPARTMENT:** City Manager  
**PRESENTED BY:** Tabatha Miller  
**EMAIL ADDRESS:** [tmiller@fortbragg.com](mailto:tmiller@fortbragg.com)

## AGENDA ITEM SUMMARY

**TITLE:**

**Receive Report and Consider Adoption of City Council Resolution Providing for Assumption and Amendment of the Fort Bragg Solid Waste Franchise Agreement**

**ISSUE:**

The City of Fort Bragg's Franchise Agreement with USA Waste of California, Inc., dba Empire Waste Management expires on June 30, 2021. City and County staff jointly met with Waste Management (WM) for initial discussions on negotiating new agreements on September 23, 2020, both jurisdictions thought that working together would be beneficial. At that time, WM indicated that they would not enter into a short-term extension of the Franchise Agreements and the minimum term they would consider was five years. WM also indicated that they would not bid on franchises where they were already the current provider. One of the challenges since September has been engaging WM staff in discussions regarding terms of a new Agreement. As the Council knows, the County Board of Supervisors made the decision to bid their franchise on December 8, 2020.

Part of the challenge, is that it is in WM's best interest to delay negotiations as long as possible in order to prevent another provider from having sufficient time to establish a local facility, purchase the trucks and other equipment necessary to establish an operation on the coast, and hire staff. Six months is considered the time typically needed to make such a transition. On January 31<sup>st</sup>, five months will remain before the WM Agreement expires.

After the City Council Special Meeting on December 22, 2020, where the Council approved the letter to WM indicating that negotiations would not be exclusive, the City Manager reached out to C&S Waste Solutions, based in Ukiah, to inquiry about whether they would be interested in discussing the Solid Waste Franchise Agreement. The City received a proposal and letter of commitment from C&S Waste Solution on December 28, 2020 (Attachment 3). The City Council Ad Hoc Solid Waste Franchise Committee (Mayor Norvell and Councilmember Peters) and City Manager met with representatives of C&S Waste on December 31, 2020. A key aspect of that conversation was the time necessary to transition to a new provider. There was agreement between the parties that if the City was interested in changing providers, that decision would need to be made before the end of January 2021.

**ANALYSIS:**

**Franchise Agreements**

The current Solid Waste Franchise Agreement, was executed on January 8, 2007 and originally contained a termination date of June 30, 2014. In August of 2011, the Agreement was extended to June 30, 2021.

AGENDA ITEM NO. 2A

[California Public Resources Code Section 40059](#) provides the City with the authority to determine all aspects of solid waste handling as it is of local concern, including the frequency of and means of collection, transportation, level of services, charges and fees and extent of providing such services. Section 40059 also allows cities to determine how services are procured, it allows cities to obtain services by using partially exclusive or wholly exclusive franchises, contracts, licenses or permits with or without competitive bidding. This code section also provides the City with the authority to establish its own terms for procuring solid waste services by resolution or ordinance.

[Fort Bragg Municipal Code Chapter 6.08 – Refuse and Recyclable Collections, Section 6.08.020](#) provides that no one can engage in refuse and recycling collection in the City except under contract with the City. That contract can be exclusive or nonexclusive and the City may regulate all aspects of collection. The chapter also provides regulation on how solid waste is prepared, contained, stored and collected within City limits.

### C&S Waste Solutions

C&S Waste Solutions (C&S), based in Ukiah, is a group of companies with more than 20 years of experience in Northern California. The group of companies provide integrated waste services, including collection, transfer and disposal, recyclable collection and processing, green and wood waste collection and processing, landfill operations, sanitation services and scrap metal purchasing and marketing. They also have presence in southern Nevada. C&S currently provides services to the City of Ukiah, Lake County and Clearlake in our area. A full history of the company is attached in the materials provided by C&S (Attachment 4).

Each Councilmember has toured the C&S facility in Ukiah. The facility includes the large Material Recovery Facility (MRF) which can process commingled paper, aluminum, PET, LDPE, HDPE plastics (1-7), glass, cans and cardboard. The facility also houses the green and wood waste processing facility. Both operations have the capacity to add the City of Fort Bragg to their processing. C&S also operates transfer stations in Ukiah and Lake County.

Staff has checked references with each of those jurisdictions and were provided strong reviews. A copy of the written response from the City of Ukiah and the City of Clearlake is attached (Attachment 5). Additionally, staff spent approximately 50 minutes in a phone conversation with staff from Lake County inquiring about the level of services provided by C&S and the County staff's relationship with C&S. The responses received were very positive but also provided honest feedback. Consistent in both the discussions with Lake County and the response from City of Ukiah is the strong support provided by C&S to those jurisdiction for compliance with the state mandated diversion programs, including AB341, SB939 and SB1383. Implementation of the requirements of SB939 and SB1383 are pending issues for the City.

C&S has proposed an assumption and amendment (Attachment 1) to the City's current Franchise Agreement (Attachment 6). The amendment substitutes C&S for WM as of July 1, 2021 and provides for a 10-year Franchise Agreement with two 5-year optional

renewals. The Amendment extends the existing WM levels of services at the current rates. C&S has leased facilities south of Fort Bragg (See Attachment 7) and as a result certain terms of the current agreement would cause C&S to be in default on July 1<sup>st</sup>. To avoid this result, the Amendment waives the requirement to maintain an office, yard and recycling center within the City limits and provides that a coastal facility near the City will meet the terms. Likewise, we have provided a six-month grace period for C&S to establish a Recycling Center to serve City residents. The goal of both the City and C&S is to negotiate a revised agreement no later than December 31, 2021.

In particular, both parties would like to revise the rate adjustment structure, so that large retroactive rate increases do not happen going forward. Nevertheless, according to C&S they have never requested a retroactive rate adjustment.

Finally, the City Council Ad Hoc Solid Waste Franchise Committee was concerned for loss of employment by WM employees laid off as a result of the transition. C&S has committed to hiring all displaced WM employees essential to the Fort Bragg operations that meet their hiring criteria. C&S provided a list of the current Employee Benefit Package as part of Attachment 3 and will honor seniority dates for current WM employees.

**RECOMMENDED ACTION:**

City Council Ad Hoc Solid Waste Franchise Committee recommends the City Council adopt the Resolution approving the Assumption and Amendment of the Fort Bragg Solid Waste Franchise Agreement with C&S Group Holdings, Inc. and authorizing the City Manager to sign.

**ALTERNATIVE ACTION(S):**

1. Do not approve the resolution and direct staff to continue negotiations with USA Waste of California Inc.
2. Revise the resolution or the Assumption and Amendment, subject to C&S approval.
3. Provide alternative direction.

**FISCAL IMPACT:**

The fiscal impact to the City and solid waste customers should be minimal, the contract terms are nearly identical to the current agreement. Under an Amendment or Restatement terms as to price could impact the City and solid waste customers positively or negatively and will certainly be taken into consideration during those negotiations.

**GREENHOUSE GAS EMISSIONS IMPACT:**

Changing solid waste providers by itself will have little impact on greenhouse gas emission, however, new equipment and trucks would positively reduce greenhouse gas emissions.

**CONSISTENCY:**

Securing a long term contract with a provider is consistent with Chapter 6.08: Refuse and Recyclable Collection – of the Fort Bragg Municipal Code.

**IMPLEMENTATION/TIMEFRAMES:**

Service requirements would be effective July 1, 2021.

**ATTACHMENTS:**

1. Assumption and Amendment – Fort Bragg Franchise Agreement
2. Resolution
3. C&S Commitment Letter
4. C&S Information Packet
5. References
6. Current Franchise Agreement with USA Waste of California and Amendments
7. Option and Lease Agreement

**NOTIFICATION:**

1. Bruce McCracken, C&S Waste Solutions